THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.3068 of 2006

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Dated: February 20, 2006

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Between:

The Depot Manager, APSRTC,

Maddilapalem City Depot,

Visakhapatnam.

… Petitioner

And

A.P. State Secretary,

APRTC Karmika Sangh,

Regd. No.B.995 (BMS & BPMM),

Visakhapatnam, representing

S. Adinarayana, E.85259, Conductor,

and another.

… Respondents

Order:

The first respondent-Union has raised an industrial dispute in I.D.No.87 of 2003 before the second respondent-Tribunal with regard to the punishment imposed on one Mr. S. Adinarayana, who is working as Conductor and attached to Maddilapalem City Depot.

2. A reference was made by the Government in exercise of powers under Section 10 (1) (c) of the Industrial Disputes Act, 1947 ('the Act' for brevity) to the Tribunal, which reads as follows. –

> " Whether the action of the Depot Manager, APSRTC, Maddilapalem city depot, imposing the punishment of withholding of annual increment for a period of two year with cumulative effect on Sri S. Adinarayana, E.85259, Conductor, Maddilapalem City Depot is justified? If not, to what relief the workman is entitled?"

3. Before the Tribunal, on behalf of the workman-Conductor, he himself was examined as W.W.1. and Final order and Conciliation failure report were marked as Exs. W.1 and W.2. On behalf of the management, one witness was examined as M.W.1 and Ex.M.1 to M.11 were marked. The Tribunal by award dated 22-02-2005, modified the order dated 01-12-1997 of the petitioner-Depot Manager, to that of stoppage of annual increment for a period of one year without cumulative effect. The said modification was ordered by the Tribunal, taking into account that the workman was not awarded any punishment earlier and further taking into account his service record.

4. In this Writ Petition, learned counsel for the petitioner submits that no cogent reasons have been given by the Tribunal for modification of the award. But, however, it is to be seen that the modification is to a limited extent, i.e. from deferment of two annual increments with cumulative effect to that of withholding one increment without cumulative effect. In the award, it is clearly stated that the said modification is ordered, taking into account that the workman has not suffered any punishment earlier and also taking into account the service record of the workman. The reasons given as referred above are sufficient to modify the award. In any event, it appears that though earlier the disciplinary authority has ordered for stoppage of two annual increments with cumulative effect, but, however, no regular enquiry was

conducted. Further, for the discretion exercised by the Tribunal taking into account that the workman has not suffered any punishment earlier and also taking into account his service record, I do not find any ground to test the validity of the award passed by the Tribunal under Article 226 of the Constitution of India and admit the Writ Petition.

5. The writ petition is devoid of merits and is accordingly dismissed.

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JUSTICE R. SUBHASH REDDY.

February 20, 2006

MRR